

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

RAEHEL GUSTIN,)	
)	
and)	
)	
DAVID GUSTIN,)	
)	
Plaintiffs,)	
)	
v.)	Case No.
)	
LM GENERAL INSURANCE COMPANY,)	Removed from the Circuit Court
)	of Jackson County, Missouri, as
Defendant.)	Case No. 2316-CV20380

NOTICE OF REMOVAL

COMES NOW Defendant LM General Insurance Company, and pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, hereby gives notice of the removal of this action to the United States District Court for the Western District of Missouri from the Circuit Court of Jackson County, Missouri.

In support of its Notice of Removal, Defendant states as follows:

1. On August 2, 2023, Plaintiffs Raechel and David Gustin filed a Petition in the Circuit Court of Jackson County, Missouri, in the case styled *Raechel Gustin and David Gustin v. LM General Insurance Company d/b/a Liberty Mutual Ins. Co.*, Case No. 2316-CV20380. [Petition, attached as part of Exhibit A]
2. Defendant was served with process on August 28, 2023. [Notice of Service of Process, attached as part of Exhibit A]
3. Plaintiffs assert claims for Count I – Breach of Contract and Count II – Vexatious Refusal against Defendant.

4. In this case, Plaintiffs allege tortfeasor Darrin Wright's insurance policy with liability limits of \$100,000 did not cover all of Plaintiffs' damages. [Petition at ¶ 19-22].

5. Plaintiffs further allege that Defendant is liable for their remaining damages under the Policy to pay Underinsured Motorist coverage in the amount up to the limits of \$250,000.00 for each person and \$500,000.00 for each accident. [Petition at ¶ 18].

6. Based on Plaintiffs' claims, they allege they are entitled to damages in excess of \$75,000.00, exclusive of interest and costs.

7. Plaintiffs are residents of Missouri. [Petition at ¶1]

8. Defendant LM General Insurance Company is incorporated in Massachusetts with its principal place of business in Massachusetts, and thus is a citizen of either of those states pursuant to 28 U.S.C. § 1332(c)(1). [Petition at ¶ 2]

9. Therefore, this case is an action in which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332(a)(1) and is one that may be removed pursuant to 28 U.S.C. § 1441 because the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, and the parties are citizens of different states.

10. Removal to this Court is proper because the Circuit Court of Jackson County, Missouri, where the action was pending before removal, requires removal to the United States District Court for the Western District of Missouri, Western Division per Local Rule 3.2.

11. This Notice of Removal is filed within thirty days after Defendants were served with a copy of Plaintiff's Petition. Therefore, this Notice of Removal is timely pursuant to 28 U.S.C. §1446(b)(1).

12. Immediately upon filing of this Notice of Removal, Defendants will give written notice to Plaintiff and will file a true and correct copy of the Notice of Removal with the Clerk of the Circuit Court of Jackson County, Missouri, in accordance with 28 U.S.C. § 1446(d).

13. Pursuant to 28 U.S.C. § 1446(a), attached hereto and marked as Exhibit A is a true and correct copy of all process, pleadings and orders which as of the date hereof have been received by Defendants in the Jackson County, Missouri action, with a copy of that court's docket sheet as Exhibit B.

14. Filed contemporaneously with this Notice of Removal is a Civil Cover Sheet.

15. Pursuant to the provisions of 28 U.S.C. §§ 1332, 1441, 1446 and other applicable statutes, all of which Defendants have complied with, this cause is removable to the United States District Court for the Western District of Missouri, Western Division.

16. This Notice of Removal is signed by Defendants' counsel pursuant to Rule 11 of the Federal Rules of Civil Procedure.

WHEREFORE, Defendant LM General Insurance Company gives notice of the removal of this action pending in the Circuit Court of the Jackson County, Missouri, to this Court.

Respectfully submitted,

SCHAFFER & ASSOCIATES, CHARTERED

/s/ Mark B. Schaffer

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ATTORNEY FOR DEFENDANTS

CERTIFICATE OF SERVICE

I do hereby certify that I have served a true and correct copy of the above and foregoing document on counsel of record through the Court's electronic filing system on this 20th day of September, 2023.

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ATTORNEY FOR PLAINTIFF

/s/ Mark B. Schaffer
Mark B. Schaffer
For the Firm